



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,192	06/27/2001	Ismail K. Labeeb	METABYTE-I	3912
45722	7590	08/02/2007	EXAMINER	
PLEVY, HOWARD & DARCY, P.C.			L.U. SHIRLEY	
P.O. BOX 226			ART UNIT	PAPER NUMBER
Fort Washington, PA 19034			2612	
MAIL DATE		DELIVERY MODE		
08/02/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/893,192	LABEEB ET AL.
	Examiner Shirley Lu	Art Unit 2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 September 2006.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20,22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20,22 and 23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1/19/07.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### Response to Arguments

a. Applicant argues on page 9 that Zigmond does not specifically disclose the newly amended limitations of claims 1 and 14.

In response, examiner respectfully defers the grounds of rejection below.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**1. Claims 1-20, 22-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Zigmond et al. (6,698,020).**

As to claim 1, Zigmond discloses:

A method for displaying a TV program to a viewer, comprising:

receiving a plurality of TV programs, wherein at least some of the received TV programs compete with at least some others of the received TV programs for viewership; allowing the viewer to select one of the plurality of received TV programs for viewing ([7, 13-36]);

storing data indicative of the viewer selected TV program and data indicative of at least some others of the TV programs competing with the viewer selected TV

program; determining viewing preferences using the stored data indicative of the user selected TV program and data indicative of at least some others of the TV programs competing with the viewer selected TV program ([11, 13-30]; [13, 5-28]);

controlling the programming displayed to the viewer in accordance with the viewer selection and the determined viewing preferences (fig. 6; [17, 10-50]; [6, 6-9]).

As to claim 2, the claimed "displaying the viewer selected program and additional programs selected in accordance with the determined viewing" is met as disclosed by Zigmond et al, wherein 'viewers change the television channel to tune into channels that are broadcasting programming' (column 13, lines 12-19) (claimed "viewer selected program"), and 'advertisements to be shown to a viewer are selected according to designated criteria in combination with information that characterizes the viewer (claimed "previously determined viewing preferences of the viewer") (column 6, lines 6-9), which are displayed on display [61], Figure 3 and display [58], Figure 4.

As to claim 3, the claimed "the displaying one or more advertisements" is met since 'the user may select one of a plurality of ads' that 'the user is presented with' (column 9, lines 30-31).

As to claim 4, the claimed "receiving a plurality of additional programs" is met as discussed in claim 3, since displaying a plurality of advertisements or "additional programs" requires the receiving of the additional programs.

As to claim 5, the claimed "selecting one or more of the received additional program in accordance with the previously determined viewing preferences for display to the viewer" is disclosed by Zigmond et al., wherein 'the user may select one of a

plurality of ads' that 'the user is presented with' (column 9, lines 30-31), wherein the 'ads or "additional programs" to be shown to a viewer are selected according to designated criteria in combination with information that characterizes the viewer' (claimed "previously determined viewing preferences of the viewer") (column 6, lines 6-9).

As to claim 6, the claimed "receiving the plurality of programs through one or more broadcast televisions, cable television networks, computer networks, or telephone networks" is disclosed by Zigmond et al. wherein 'programming is transmitted via any suitable program delivery channel, such as an over-the-air broadcast, a cable provider, a consumer satellite service, telephone lines, via the Internet, or by any other system for transmitting video data' (column 7, lines 17-21).

As to claim 7, the claimed "receiving the additional programs independently of the TV programs" is met as shown in figure 4, wherein ad source 62 or "additional programs" and programming source [66] or "or TV programs" are each received independently through streams [64] and [52] respectively.

As to claim 8, the claimed "receiving the plurality of TV programs on a first set of TV channels" and "receiving the plurality of additional programs on a second set of TV channels" is disclosed by Zigmond et al. wherein "advertisement stream 64 may be broadcast on a dedicated channel during a late night period of time when relatively few viewers are watching television" TV programs are on a different channel (column 18, lines 10-15).

As to claim 9, Zigmond et al. disclose "multiplexing advertisement stream 64 into video programming feeds 38 and 39," (column 18, lines 20-21) which meets the claimed "receiving the additional programs multiplexed with one or more of the TV programs."

As to claim 10, the claimed "storing the received additional programs for subsequent display to the viewer" is met by "a local repository having stored therein a plurality of advertisements, from which an advertisement stream 64 is delivered to the ad insertion device" (column 8, lines 2-7), which is later displayed on display [58].

As to claim 11, the claimed "displaying the viewer selected program and additional programs selected in accordance with the previously determined viewing preferences of the viewer from among the stored additional programs" is disclosed by Zigmond et al. wherein 'viewers change the television channel to tune into channels that are broadcasting programming' (column 13, lines 12-19) (claimed "viewer selected program") and "a device such as advertisement repository 86 of FIG. 5 may be used to store the transmitted advertisements for later selection and display" (column 18, lines 1-11).

As to claim 12, the claimed "receiving a plurality of additional programs including targeting parameters related to the previously determined viewing preferences of the viewer" is disclosed by Zigmond et al. wherein the "plurality of additional programs" are met as discussed in claim 4, and wherein "The viewer and system information may include data provided by the viewer upon initiation of the services provided by the ad

insertion device 80, such as a voluntary survey or questionnaire filled out during the registration process" (column 10, lines 36-48).

As to claim 13, the claimed "targeting parameters include one or more of TV viewing preferences, demographic information, and additional program display schedule information" is disclosed by Zigmond wherein 'advertisements to be shown to a viewer are selected according to designated criteria in combination with information that characterizes the viewer (claimed "viewing preferences"), the content of video programming feed (claimed "additional program display schedule information"), and the geographical location of the household' (claimed "demographic information") (column 6, lines 6-9). Furthermore, "viewer demographic data may be stored in storage location 82, including age, sex, income, preferred language, number of residents, or similar information (claimed "demographic information") (column 10, lines 48-54). Also, "the advertisement parameters include, for example, a description of the content of the advertisement, codes that identify the subject matter of the advertisement, or other mechanisms for characterizing the advertisement so that the advertisement may be displayed to an appropriate segment of the viewing population...the ad selection rules used to match the viewer and system information of storage location 82 or the programming content information of electronic program database 81 with the advertisement parameters associated with the advertisements" (claimed "additional program display schedule information") (column 11, lines 31-49).

With respect to claims 14-23, the receiving of data as specified in claims 1-13 require the transmission of said data.

As to claim 14,

A method for displaying a TV program to a viewer, comprising:

transmitting a plurality of TV programs for selection therebetween by the viewer, wherein at least some of the received TV programs compete with at least some others of the received TV programs for viewership; transmitting a plurality of additional programs ([7, 13-36]);

storing data indicative of the viewer selected TV program and data indicative of at least some others of the TV programs competing with the viewer selected TV program; determining viewing preferences using the stored data indicative of the user selected TV program and data indicative of at least some others of the TV programs competing with the viewer selected TV program ([11, 13-30]; [13, 5-28]);

selecting ones of the additional programs in accordance with the determined viewing preferences for display to the viewer with the selected TV programs (fig. 6; [17, 10-50]; [6, 6-9]).

As to claim 15, the claimed "transmitting the plurality of additional programs independently of the TV programs" is disclosed by Zigmond et al. met since the additional programs that were received independently of TV programs require transmission as discussed in claim 7.

As to claim 16, the claimed "transmitting a plurality of advertisements" is disclosed by Zigmond et al. since the plurality of advertisements received require transmission as discussed in claim 3.

As to claim 17, Zigmond et al. disclose the claimed "transmitting the plurality of TV and additional programs" since the "the plurality of programs..." received require transmission as discussed in claim 6.

As to claim 18, the claimed "transmitting a plurality of additional programs independently of the TV programs" is disclosed by Zigmond et al. met since the additional programs that were received independently of TV programs require transmission as discussed in claim 7.

As to claim 19, the claimed "transmitting the plurality of TV programs...and additional programs on a second set..." is disclosed by Zigmond et al. met since the programs that were received on different sets of TV channels require transmission as discussed in claim 8.

As to claim 20, the claimed "transmitting the additional programs multiplexed..." is disclosed by Zigmond et al. met since received additional multiplexed programs require transmission as discussed in claim 9.

As to claim 22, the claimed "transmitting a plurality of additional programs including targeting parameters..." is disclosed by Zigmond et al. met since the plurality of additional programs including targeting parameters received require transmission as discussed in claim 12.

As to claim 23, the claimed "targeting parameters..." is met as discussed in claim 13.

### Conclusion

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

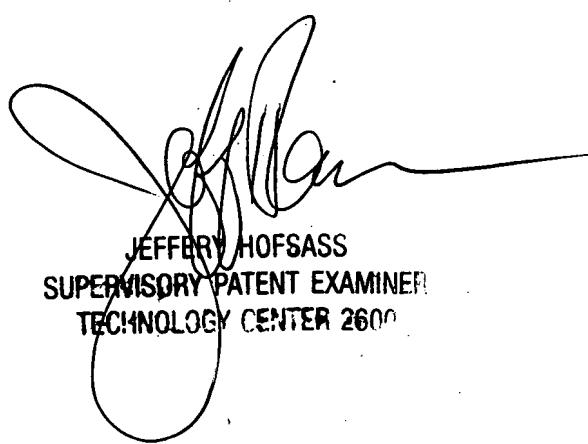
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shirley Lu whose telephone number is (571) 272-8546. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SL



JEFFERY HOFSSASS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600